

REMARKS/ARGUMENTS

The final Office Action of July 26, 2007 has been reviewed and these remarks are responsive thereto. Applicants note that the undersigned is new counsel of record pursuant to the Power of Attorney filed September 21, 2007. Claims 1, 4, 5, 8-12, 14-17, and 20 have been amended, claims 3, 6, 7, 13, 19, and 21 have been canceled without prejudice or disclaimer, and new claims 22-25 have been added. No new matter has been added. Claims 1, 4, 5, 8-12, 14-17, 20, and 22-25 thus remain pending in this application. Reconsideration and allowance of the instant application are respectfully requested.

Rejections Under 35 U.S.C. § 102

Claims 1, 5, 8-12, 14-17, and 20 stand rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent Appl. Pub. No. 2003/0149988 (Ellis). Applicants traverse this rejection for at least the following reasons.

Independent claim 1 has been amended to recite, “accessing stored user information to identify a delivery method associated with the user identifier,” and “transmitting the identified audio or video file using the associated delivery method.” The Office Action argues on pages 8-9 that Ellis describes storing user information at paragraph [0087] and in FIGS. 4-5. However, these portions of Ellis only disclose storing dates, times, and channels of programs viewed by a user. Neither the relied-upon sections nor any other portion of Ellis teaches or suggests storing user information “to identify a delivery method associated with the user,” as recited in amended claim 1. Furthermore, Ellis only discusses a single delivery method (i.e., transmission from a media server to a television or other display for on-demand viewing), and is therefore not equipped to use any of the other delivery methods discussed in the instant specification. Thus, since Ellis discloses only one delivery method, it has no need to store “information to identify a delivery method,” and never even suggests this feature or any equivalent concept. For similar reasons, Ellis also does not teach or suggest “transmitting the identified audio or video file using the associated delivery method.” For at least these reasons, amended claim 1 is not anticipated by Ellis.

Independent claim 8 has been amended to recite, “wherein the server is configured to ... access the stored user information to identify a delivery method associated with the user

identifier.” As discussed above, Ellis does not disclose storing delivery method information associated with users. Accordingly, amended claim 8 is not anticipated by Ellis for similar reasons to those stated above regarding claim 1.

Independent claim 17 has been amended to recite a machine-readable storage medium to perform the same method recited in claim 1. Therefore, claim 17 is not anticipated by Ellis for the same reasons as claim 1.

Dependent claims 5, 9-12, 14-16, and 20 are not anticipated by Ellis for at least the same reasons as their respective base claims, as well as based on the additional features recited therein. For example, amended claims 5 and 20 recite that the order is received in a “transmission comprising a regular periodic transmission of data from the video viewing system that was scheduled prior to the user selection,” and amended claim 12 recites “appending the order to a normal regular communication between the video viewing system and the server that was scheduled prior to receiving the request.” Neither the relied-upon sections nor any other portion of Ellis teaches or suggests these additional features. In fact, transmitting an order in a “regular transmission ... scheduled prior to the user selection [of the requested media],” as recited in claims 5, 12 and 20, stands in contrast to the on-demand system described in Ellis. Accordingly, amended claims 5, 12, and 20 are allowable for these additional reasons.

Rejections Under 35 U.S.C. § 103

Claim 4 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Ellis. Applicants respectfully traverse. As discussed above, Ellis does not disclose, nor does it teach or suggest, every feature of amended claim 1. Therefore, claim 4 is also not obvious over Ellis by virtue of its dependence from claim 1, as well as based on its additional recited features.

New Claims

Applicants have added new claims 22-25. No new matter has been added. While Applicants note that new claims 39-47 have not been rejected, the following remarks are submitted in the interest of expediting prosecution.

Claim 22 recites “wherein the identified delivery method corresponds to email delivery, and wherein the transmitting comprises sending an email including the audio or video file to an

email address associated with the user identifier,” and claim 23 recites “wherein the identified delivery method corresponds to delivery to the video viewing system, and wherein the transmitting comprises transmitting the audio or video file to a portable storage device connected to the video viewing system.” As discussed above regarding claim 1, Ellis does not teach or suggest storing delivery methods associated with users, and discloses only a single delivery method for the transmission of media. Indeed, Ellis does not disclose transmitting media by “sending an email ... to an email address associated with the user,” as recited in claim 22, or by “transmitting the audio or video file to a portable storage device connected to the video viewing system,” as recited in claim 23. Accordingly, Applicants submit that claim 22 and 23 are allowable for at least these additional reasons.

Claim 24 recites identifying and transmitting “an audio file containing a single song,” and claim 25 recites identifying and transmitting “a video file containing a single music video.” Ellis does not teach or suggest transmitting a single song or music video file. Additionally, as previously argued in the Amendment filed April 30, 2007, Ellis’ system only allows users to record “programs” in their entirety according to the program guide data transmitted to users’ televisions. Therefore, Ellis’ system is incapable of transmitting a single song or music video file as recited respectively in claims 24 and 25.

(Conclusion and signature block follow on next page)

CONCLUSION

Based on the foregoing, Applicants respectfully submit that the application is in condition for allowance and a Notice to that effect is earnestly solicited. Should the Examiner believe that anything further is desirable in order to place the application in even better form for allowance, the Examiner is respectfully urged to contact Applicants' undersigned representative at the below-listed number.

Respectfully submitted,
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